

(B) Follow the procedures relating to monitoring a contractor's corrective action and the correction of significant deficiencies at PGI 234.201(7).

(8) *System approval.* The contracting officer shall promptly approve a previously disapproved earned value management system and notify the contractor when the contracting officer determines that there are no remaining significant deficiencies.

(9) *Contracting officer notifications.* The cognizant contracting officer shall promptly distribute copies of a determination to approve a system, disapprove a system and withhold payments, or approve a previously disapproved system and release withheld payments to the auditor; payment office; affected contracting officers at the buying activities; and cognizant contracting officers in contract administration activities.

[73 FR 21848, Apr. 23, 2008, as amended at 76 FR 28867, May 18, 2011; 76 FR 76320, Dec. 7, 2011]

234.203 Solicitation provisions and contract clause.

For cost or incentive contracts valued at \$20,000,000 or more, and for other contracts for which EVMS will be applied in accordance with 234.201(1)(iii) and (iv)—

(1) Use the provision at 252.234-7001, Notice of Earned Value Management System, instead of the provisions at FAR 52.234-2, Notice of Earned Value Management System—Pre-Award IBR, and FAR 52.234-3, Notice of Earned Value Management System—Post-Award IBR, in the solicitation; and

(2) Use the clause at 252.234-7002, Earned Value Management System, instead of the clause at FAR 52.234-4, Earned Value Management System, in the solicitation and contract.

Subpart 234.70—Acquisition of Major Weapon Systems as Commercial Items

SOURCE: 71 FR 58538, Oct. 4, 2006, unless otherwise noted.

234.7000 Scope of subpart.

This subpart—

(a) Implements 10 U.S.C. 2379; and

(b) Requires a determination by the Secretary of Defense and a notification to Congress before acquiring a major weapon system as a commercial item.

234.7001 Definition.

Major weapon system, as used in this subpart, means a weapon system acquired pursuant to a major defense acquisition program, as defined in 10 U.S.C. 2430 to be a program that—

(1) Is not a highly sensitive classified program, as determined by the Secretary of Defense; and

(2)(i) Is designated by the Secretary of Defense as a major defense acquisition program; or

(ii) Is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than \$300,000,000 (based on fiscal year 1990 constant dollars) or an eventual total expenditures for procurement of more than \$1,800,000,000 (based on fiscal year 1990 constant dollars).

234.7002 Policy.

(a) *Major weapon systems.* (1) A DoD major weapon system may be treated as a commercial item, or acquired under procedures established for the acquisition of commercial items, only if—

(i) The Secretary of Defense determines that—

(A) The major weapon system is a commercial item as defined in FAR 2.101; and

(B) Such treatment is necessary to meet national security objectives;

(ii) The offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for such a system; and

(iii) The congressional defense committees are notified at least 30 days before such treatment or acquisition occurs. Follow the procedures at PGI 234.7002.

(2) The authority of the Secretary of Defense to make a determination under paragraph (a)(1) of this section may not be delegated below the level of the Deputy Secretary of Defense.

(b) *Subsystems.* A subsystem of a major weapon system (other than a commercially available off-the-shelf item) may be treated as a commercial